



KENT COUNTY SHERIFF'S OFFICE

JAYTON, TEXAS

2011 RACIAL PROFILING REPORT

Since January 1, 2002, the Kent County Sheriff's Office in accordance with the Texas Racial Profiling Law (S.B. No. 1074), has been collecting police contact data for the purpose of identifying and responding (if necessary) to concerns regarding racial profiling practices. It is my hope that the findings provided in this report will serve as evidence that the Kent County Sheriff's Office continues to strive towards the goal of maintaining strong relations with the community.

In this report, the reader will encounter several sections designed at providing background information on the rationale and objectives of the Texas Racial Profiling Law. Other sections contain information relevant to the institutional policies adopted by the Kent County Sheriff's Office banishing the practice of racial profiling among its deputies.

The final components of this report provide statistical data relevant to the public contacts made during the period of *January 1, 2011 thru December 31, 2011*. This information has been analyzed and compared to the 2010 Census. The analysis of the data and recommendations for future areas of research are also included. It is my sincere hope that the channels of communication between community leaders and the Kent County Sheriff's Office continue to strengthen as we move forward to meet the challenges of the near future.

BACKGROUND

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure for law enforcement agencies. The commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of what must be accomplished by an agency but allows wide latitude in determining how the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The standard statement is a declarative sentence that places a clear cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

STANDARD 1

Each law enforcement agency has a detailed written directive that:

- Clearly defines acts that constitutes racial profiling;
- Strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- Implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- Provides for public education relating to the complaint process;
- Requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- Requires the collection of certain types of data for subsequent reporting.

COMMENTARY

Article 2.131 of the Texas Code of Criminal Procedure prohibits officers from engaging in racial profiling, and Article 2.132 of the Texas Code of Criminal Procedure now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county,

municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

This written policy is to be adopted and implemented no later than January 1, 2002.

STANDARD 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- A physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- The traffic law or ordinance alleged to have been violated or the suspected offense;
- Whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- Whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- Whether probable cause to search existed, and the facts supporting the existence of the probable cause;
- Whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- The street address or approximate location of the stop; and
- Whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

COMMENTARY

The information required by Article 2.133 of the Texas Code of Criminal Procedure is used to complete the agency reporting requirements found in Article 2.134 of the Texas Code of Criminal Procedure. A peace officer and an agency may be exempted from this requirement under Article 2.135 of the Texas Code of Criminal Procedure Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Article 2.135(a)(2) of the Texas Code of Criminal Procedure states "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does

not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.”

STANDARD 3

The agency compiles the information collected under Article 2.132 and Article 2.133 of the Texas Code of Criminal Procedure and analyzes the information identified in Article 2.133 of the Texas Code of Criminal Procedure

COMMENTARY

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Texas Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 of the Texas Code of Criminal Procedure requires the agency to compile and provide an analysis of the information collected by peace officers employed by the agency. The report is provided to the governing body of the county or municipality and to the Texas Commission on Law Enforcement Officer Standards and Education no later than March 1st of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 of the Texas Code of Criminal Procedure (tier one) and Article 2.133 of the Texas Code of Criminal Procedure (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- The race or ethnicity of the individual detained (race and ethnicity as defined by the bill means “a particular descent, including Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern descent.”);
- Whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- Whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- The detained person’s gender and race or ethnicity;

- The type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- Whether a search was conducted, and if so, whether it was based on consent or probable cause;
- Facts supporting probable cause;
- The type, if any, of contraband that was collected;
- Disposition of the stop, e.g., arrest, ticket, warning, or release;
- Location of stop; and
- Statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and Tier two reports are reported to the county or municipality not later than March 1st for the previous calendar year beginning March 1, 2003. Tier two reports include comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from traffic stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the Tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. [See 2.135(a)(2) Texas Code of Criminal Procedure]

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

STANDARD 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency should:

- Adopt standards for reviewing and retaining video and audio documentation; and
- Promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

COMMENTARY

The agency should have a specific review and retention policy. Article 2.132 of the Texas Code of Criminal Procedure specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

STANDARD 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

COMMENTARY

None

STANDARD 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 of the Texas Code of Criminal Procedure and officers are exempt from the reporting requirements of Article 2.133 of the Texas Code of Criminal Procedure provided that:

- The equipment was in place and used during the preceding calendar year; and
- Video and audio documentation is retained for at least 90 days.

COMMENTARY

The audio and video equipment policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 of the Texas Code of Criminal Procedure.

STANDARD 7

Agencies must have citation forms or other electronic media that comply with Section 543.202 of the Texas Transportation Code.

COMMENTARY

Senate Bill 1074 changed Section 543.202 of the Texas Transportation Code requiring citations to include:

- Race or ethnicity; and
- Whether a search of the vehicle was conducted and whether consent for the search was obtained.

COMPARISION OF CONTACTS TO 2010 CENSUS DATA

2010 Census Data		
	Number	Percent
Caucasian	753	84.8%
African	8	0.9%
Hispanic	120	13.5%
Asian	0	0.0%
Native American	7	0.8%
Middle Eastern	0	0.0%
Other	0	0.0%
Totals	888	100%

Traffic Contacts			
		Number of Contacts	Percentage
Caucasian		170	93.9%
African		3	1.7%
Hispanic		4	2.2%
Asian		0	0.0%
Native American		1	0.6%
Middle Eastern		0	0.0%
Other		3	1.7%
Totals		181	100%

Variance Table						
		Contacts	%	Households	%	Variance
Caucasian		170	93.9%	753	84.8%	9.1%
African		3	1.7%	8	0.9%	0.8%
Hispanic		4	2.2%	120	13.5%	-11.3%
Asian		0	0.0%	0	0.0%	0.0%
Native American		1	0.6%	7	0.8%	-0.2%
Middle Eastern		0	0.0%	0	0.0%	0.0%
Other		3	1.7%	0	0.0%	1.7%
Totals		181	100%	888	100%	

STOPS OF LOCAL RESIDENTS REPORT

Stops - Local			
		Number of Residents Stopped	Percentage
Caucasian		17	94.4%
African		0	0.0%
Hispanic		1	5.6%
Asian		0	0.0%
Native American		0	0.0%
Middle Eastern		0	0.0%
Other		0	0.0%
Totals		18	100%

TRAFFIC STOPS BY RACE AND GENDER

Stops - Race - Gender					
		Male	Female	Total M - F	%
Caucasian		126	44	170	93.9%
African		2	1	3	1.7%
Hispanic		4	0	4	2.2%
Asian		0	0	0	0.0%
Native American		1	0	1	0.6%
Middle Eastern		0	0	0	0.0%
Other		2	1	3	1.7%
Totals		135	46	181	100%

TRAFFIC STOP SEARCHES AND ARREST REPORT

Search and Arrest		# of Each	Searched	Consented	Proable Cause	Arrests
Caucasian	Male	126	3	3	0	0
	Female	44	1	1	0	0
Totals		170	4	4	0	0
Percentage		93.9%	2.4%	2.4%	0.0%	0.0%
African	Male	2	0	0	0	0
	Female	1	0	0	0	0
Totals		3	0	0	0	0
Percentage		1.7%	0.0%	0.0%	0.0%	0.0%
Hispanic	Male	3	0	0	0	0
	Female	1	1	1	0	0
Totals		4	1	1	0	0
Percentage		2.2%	25.0%	25.0%	0.0%	0.0%
Asian	Male	0	0	0	0	0
	Female	0	0	0	0	0
Totals		0	0	0	0	0
Percentage		0.0%	0.0%	0.0%	0.0%	0.0%
Natvie American	Male	1	0	0	0	0
	Female	0	0	0	0	0
Totals		1	0	0	0	0
Percentage		0.6%	0.0%	0.0%	0.0%	0.0%
Middle Eastern	Male	0	0	0	0	0
	Female	0	0	0	0	0
Totals		0	0	0	0	0
Percentage		0.0%	0.0%	0.0%	0.0%	0.0%
Other	Male	2	0	0	0	0
	Female	1	0	0	0	0
Totals		3	0	0	0	0
Percentage		1.7%	0.0%	0.0%	0.0%	0.0%

SUMMARY STATEMENT

The findings suggest that the Kent County Sheriff's Office does not currently experience a problem regarding racial profiling practices. This is supported by the fact that it has not received complaints from the community members regarding officers misconduct associated with racial profiling practices.

The continuing effort to collect police contact data will assure an on-going evaluation of the Kent County Sheriff's Office practices. Thus, allowing for the citizens of the county to benefit from professional and courteous service from their sheriff's office.